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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,337	09/14/2005	Innocente Marchante Moreno	124210	1543

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EXAMINER
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LEYSON, JOSEPH S

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 09/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/538,337

**Applicant(s)**

MARCHANTE MORENO ET AL.

**Examiner**

Joseph Leyson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 09/14/05.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

#### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

#### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 3-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites ““monorail” type” which is indefinite as to its metes and bounds.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoshimura et al. (U.S. Patent 4,807,336).

Yoshimura et al. (U.S. Patent 4,807,336) teach a mechanical device for simultaneously drawing plastic films in the longitudinal direction and in the transverse direction, with the use of successive grippers 2 for holding, transporting and drawing the film, the grippers 2 being supported and guided by rails 7 and driven forward by virtue of an endless chain 5 connecting the grippers 2 together, the endless chain 5 being driven by means of one or more sprockets 8, 9, 10, characterized in that it comprises, on each side of the film that is to be drawn, an endless chain 5 guided on two rails 7 of variable separation, the endless chain 5 consisting of a succession of links 14, 15 articulated to one another about vertical pins 19, the grippers 2 being connected to one pin in two or mounted between two links 14, 15, and protruding on one side of the chain 5, being guided on one (i.e., 7a) of the two rails, while guide pieces (i.e., 6, 6b contacting rail 7b

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in figs. 8-13) are connected to one pin in two or mounted between two links 14, 15, between the grippers 2, and move along the other (i.e., 7b) of the two rails such that according to the separation and/or to the variation in separation of these two rails 7 the successive links 14, 15 of the chain 5 are more or less aligned or, on the other hand, make angles with respect to one another so as to fix and/or modify the distance between the successive grippers 2, wherein the grippers 2 have bodies articulated about one in two of the vertical hinge pins of the successive links of the chain 5, whereas the guide pieces (i.e., 6, 6b in figs. 8-13) are articulated about the other vertical hinge pins of the successive links of the chain which are situated between the previous hinge pins (i.e., figs. 8-13), wherein particularly in divergent portions of the two chains 5, placed one on each side of the film 1, the two rails 7a, 7b converge such that the angles between the successive links of the chain will gradually open up, and the successive grippers 2 will diverge from one another, thus drawing the film a in the longitudinal direction and in the transverse direction (i.e., fig. 1, 21), wherein the two rails 7a, 7b are parallel to one another and parallel to the direction in which the film 1 is transported, and have a maximum separation in a film-preheating region A situated upstream of the drawing region B, and wherein the two rails 7a, 7b are parallel to one another and parallel to the direction in which the film a is transported and have a minimum separation in a stabilizing region C situated downstream of the drawing region B (i.e., fig. 1, 21), and wherein mechanical means (i.e., fig. 3) are provided for locally modifying the separation of the two rails and/or their angle of convergence, so as to adjust the longitudinal and transverse draw ratios during production.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshimura et al. (U.S. Patent 4,807,336) in view of FR 2686041.

Yoshimura et al. (U.S. Patent 4,807,336) disclose the device substantially as claimed except for the limitations of instant claims 3-5.

FR 2686041 (figs. 1-11) discloses a gripper body/guiding piece 3, 4 which is guided along a monorail 7, wherein the gripper body/guiding piece 3, 4 includes roller means including vertical-axis rollers 26, 37, 43 rolling along two lateral faces of the rail 7 and a horizontal-axis roller 23 rolling along the top of the rail 7, wherein the lateral rollers include, on each side of the rail 7, two upper rollers 26, 37 and two lower rollers

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37, 43, and wherein the two upper rollers 26, 37 have a slight vertical offset so that they can be imbricated (i.e., fig. 9).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the gripper bodies and guiding pieces of Yoshimura et al. (U.S. Patent 4,807,336) with the roller means of FR 2686041 because such a modification would provide an alternative means for actuating the gripper bodies and guiding pieces relative to the rail, as disclosed by FR 2686041.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nagae et al. (U.S. Patent 3,276,071), Kampf (U.S. Patent 3,916,491), Nicholas et al. (U.S. Patent 4,614,011) and Rutz (U.S. Patent 5,161,674) are cited as of interest to show the state of the art.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Leyson whose telephone number is (571) 272-5061. The examiner can normally be reached on M-F 9AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gupta Yogendra can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
JL  
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PRIMARY EXAMINER  
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9/20/00